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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,707	02/23/2004	Paul F. Manley	MANL.00001	1457

7590 11/22/2006  
Law Office of Steven B. Leavitt  
9914 Waterview Parkway  
Rowlett, TX 75089

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

10/784,707

Applicant(s)

MANLEY, PAUL F.

Examiner

Arthur L. Corbin

Art Unit

1761

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

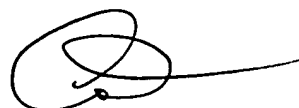
The Appeal Brief filed on 20 September 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See attached Order Remanding To The Examiner.



Arthur L. Corbin  
Primary Examiner  
Art Unit: 1761

The opinion in support of the decision being entered today was *not* written for publication in a law journal and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* PAUL F. MANLEY

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Appeal 2006-2102  
Application 10/784,707  
Technology Center 1700

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Decided: August 30, 2006

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Before KIMLIN, GARRIS, and JEFFREY T. SMITH, *Administrative Patent Judges*.

JEFFREY T. SMITH, *Administrative Patent Judge*.

ORDER REMANDING TO THE EXAMINER

This case is not ripe for meaningful review and is, therefore, remanded to the Examiner for appropriate action consistent with the views expressed below.

On page 5 of the Appeal Brief filed September 20, 2005, the Appellant provides a discussion of an Affidavit. Specifically, Appellant

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states "the examiner [sic, is] respectfully requested to view the attached Affidavit submitted under 37 C.F.R. [§] 1.132." However, a review of the Brief reveals that an Affidavit was not attached. Further, the Image File Wrapper (IFW) does not include an entry for an Affidavit filed on the same date as the Brief. Moreover, the Examiner has not addressed Appellant's reference to an Affidavit in the Answer.

A review of the IFW reveals that an Affidavit under 37 C.F.R. § 1.132 was filed on June 17, 2005. The present record is not clear as to whether the Appellant is referring to this Affidavit in the discussion appearing in the Brief or whether a new Affidavit has been provided with the filing of the Brief.

We also note that Appellant's Brief submitted September 20, 2005 is not in compliance with 37 C.F.R. § 41.37. Appellant's Brief does not include the Evidence Appendix and Related Proceedings Appendix, which are required by the cited rule.

In summary, the present application is remanded to the Examiner to respond to any properly submitted Affidavit or other evidence submitted by the Appellant. The Examiner should also ensure that the Appellant's Brief meets the requirements of 37 C.F.R. § 41.37.

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This application, by virtue of its special status, requires immediate action. See MPEP § 708.01 (8th ed., Rev. 3, August 2005), item (D). It is important that the Board of Patent Appeals and Interferences be promptly informed of any action affecting the appeal in this case.

REMANDED

clm

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